

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, February 9, 1875. }

Senate met pursuant to adjournment. Roll called: quorum present. Prayer by the chaplain. Journal of yesterday read and adopted.

Senator Ball, Chairman Committee on Penitentiary, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Penitentiary, to whom was referred House bill No. 745, "An act making provisions for the purchase and safe keeping of a library of moral and useful books for the use and improvement of the convicts confined in the State penitentiary," have examined said bill, and I am instructed to report same back, with the recommendation that it do pass.

A. J. BALL, Chairman.

Senator Friend, Chairman Committee on Roads, Bridges and Ferries, submitted the follow report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Roads, Bridges and Ferries, have examined Senate bill No. 628, "An act to authorize the county court of DeWitt county to construct a bridge across Sandies' creek," and recommend its passage.

W. R. FRIEND, Chairman.

Senator Parker, Chairman Committee on Agriculture, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Agriculture, to whom was referred House bill No. 218, "An act to amend the seventh, eighth and ninth sections of an act entitled 'an act to protect the farming interests of the State,'" passed May 16, 1873, having carefully considered the same, instruct me to report said bill back to your honorable body, with the recommendation that it do not pass.

C. A. PARKER, Chairman.

Senator V. Wood, for Judiciary Committee, submitted the following reports :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on the Judiciary, to whom was referred Senate bill No. 478, entitled "An act to provide for the removal of county seats," and a substitute and amendments to said bill, have considered the same, and instruct me to report that the committee recommend the adoption of the substitute with the following amendments.

Wood, for Committee.

Strike out the fourth section of the substitute bill and substitute the following for section four :

Section 4. Any legal voter of the county may contest the result of said election by filing, within twenty days after the result of said election for said county seat has been declared, his written protest against said result as declared with the clerk of the county court ; which protest shall contain the grounds on which said voter intends to contest said election. After the filing of said written protest, the county court of the county shall, within thirty days, proceed to try said contest, and determine the same upon the law and the facts ; and for the purposes of said trial, the county court shall have full authority and power to compel the attendance of witnesses, and the production of all papers and documents necessary for the proper determination of such contest according to the law and facts. After the determination of said contest by said county court, any legal voter of the county, who may feel himself aggrieved by the decision of said county court, may appeal said matter to the district court of the county by filing a bond conditioned for the payment of all costs, which bond shall be payable to the presiding justice of the county, which, said bond shall be approved by the county clerk ; or, if the county court shall fail or refuse from any cause within the thirty days aforesaid, to try and decide said contest, the party filing said protest shall have the right to be heard in the district court of the county by filing in said court, within five days after the expiration of the thirty days, a certified copy of his protest, and in such case the district court shall exercise original jurisdiction to hear and determine said contest on the law and the facts. In all cases of appeal to the district court from the decision of the county court, or in case the district court obtains original juris-

diction under this act, such contest shall have precedence on the docket of said court for trial over any other case, civil or criminal, nor shall such case of contest be continued for more than one term of the court. In case of appeal to the district court, the case shall be tried *de novo*. Appeal from the decision or judgment of the district court under this act shall be to the Supreme Court under the regulations now required by law, so far as not inconsistent with this act, and so soon as such appeal is perfected to the Supreme Court, said court shall at once proceed to determine such appeal. All costs shall be paid by the party or parties contesting such election. The counties of Hill, Cass and Limestone are excepted from the operation of this act. Bond for appeal to the Supreme Court shall be made payable to the district clerk, and shall be conditioned for the payment of all costs by appellant or the voter of the county taking such appeal. Until the final adjudication of contest under this act, the county seat shall remain at the place antecedently fixed by law. So soon as the appeal to the district court is perfected, or the certificate filed, the same shall be docketed and shall stand for trial, unless continued as herein provided.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to your honorable body Senate bill No. 604, "An act to authorize G. Schleicher and G. Hoffman to erect and keep a boom across the Colorado river, at or near the city of Austin, in the county of Travis," and recommend its passage.

Wood, for Committee.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Judiciary ask leave to report back to your honorable body, Senate bill No. 618, "An act to authorize the records of Menard county to be transcribed," and recommend its passage.

Wood, for Committee.

Senator Culberson, Chairman Committee on Internal Improvements, submitted the following reports :

Hon. R. B. Hubbard, President of the Senate :

Your Committee on Internal Improvements ask leave to report back to your honorable body, Senate bill No. 593, "An act to incorporate the Kaufman Tap Railroad Company," with the following amendments, to-wit :

1st. Amend section one by inserting between the words "property" and "by," in line 15, the following words: "only such as shall be necessary for the construction and operation of their road."

2d. Amend section five, by adding "*provided*, the said company shall alienate the lands so received, as follows: one-fourth in eight years; one-fourth in twelve years; one-fourth in sixteen years, and the remainder in twenty years after the issuance of the certificates."

3d. Amend section five, by adding after the proviso the following: "*provided further*, that the State shall not be liable for any deficiency in public domain," and recommend its passage, as amended.

CULBERSON, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements ask leave to report back to your honorably body, Senate bill No. 619, "An act to incorporate the Denison, Gainsville and Western Branch Railroad Company," and recommend its passage, with the following amendments:

1st. In section one, line 27, insert between the words "property" and "to," the following words: "for the uses and purposes of the road."

2d. In section two strike out the proviso contained in section seven.

3d. In section eight, add to the end of said section: "*provided*, the sale of said lands shall not be made to any stockholder of said company, or to any one, for the use or interest for said company, or to any other company or corporation."

CULBERSON, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements ask leave to report back to your honorable body, Senate bill No. 616, "An act to incorporate the Red River and Rio Grande Railroad Company," and to authorize the building of branches thereto, and to grant lands to aid in the construction thereof," with amendments, and recommend its passage as amended:

First—Strike out section four, and insert the following as a substitute therefor: Section 4. Said company, its successors and assigns, are hereby authorized and empowered to construct, own and equip and operate a line of

railroads and branches, with either single or double tracks, as said board of directors may adopt, and of such gauge, not less than three feet, as said board of directors may deem best, together with a line of telegraph along its road and branches, commencing at the terminus of the Missouri, Kansas and Texas Railroad in this State; thence in a southwest direction to Gainsville, Fort Worth, Meridian and San Saba to Eagle Pass, on the Rio Grande, with a branch commencing on its main line at Meridian; thence south to Belton, and by the city of Austin; also, with a branch commencing on its main line at Gainsville; thence west to Montague, in Montague county, and through Clay county, Archer county; and thence in a northwesterly direction to where the same will intersect the Atlantic and Pacific Railroad, with such other branches as said board of directors may adopt; *provided*, that all such branches shall not receive any grant of land from the State, each not exceeding in length one hundred miles; and when said board of directors shall undertake the construction of any branch roads, it shall be the duty of said board of directors, to file with the Secretary of State, the proceedings of said board authorizing the location and building of such branches, which proceedings shall set forth the point of starting from its main line, the route and terminus, including the distance.

Second—Amend by inserting between the words “estate” and “and,” in line twenty-three, section one, the following words “that may be necessary for the construction and operation of the road,” and recommend its passage as amended.

CULBERSON, Chairman.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Internal Improvements ask leave to report back to your honorable body, Senate bill No. 595, “An act to authorize the town of Kaufman to aid in the construction of the Kaufman Tap Railroad Company,” and recommend its passage.

CULBERSON, Chairman.

Senator Westfall, for Committee on Enrolled Bills, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills ask leave to report that they have carefully examined and find correctly enrolled, Senate bill No. 581, “An act for the relief of

R. B. Shaw," and have this eighth day of February, 1875, at 12:30 o'clock P. M., presented the same to the Governor for his approval. W. H. WESTFALL, for Committee.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Enrolled Bills ask leave to report that they have carefully examined and find correctly enrolled the following Senate bills, to-wit: Senate bill No. 525½, "An act to provide for the proper auditing of accounts of the public printer in certain cases," and Senate bill No. 491, "An act to organize the Fourth and Fifth Judicial Districts of the State of Texas, and to provide for the times of holding courts therein," and have this ninth day of February, 1875, at 10 o'clock A. M., presented the same to the Governor for his approval.

W. H. WESTFALL, for Committee.

A message from the House announced the passage of the following House bills, to-wit:

House bill No. 589, "An act to amend the first section of an act entitled 'an act to reduce into one, and amend the several acts concerning executions,' " approved 27th January, A. D. 1842.

House bill No. 651, "An act to punish parties for cutting brands out of beef hides."

House bill No. 611, "An act to repeal an act entitled 'an act to incorporate the city of Sulphur Springs, in Hopkins county,' " approved March 4th, 1873.

House bill No. 610, "An act to detach certain territory therein named from the county of Guadalupe, and attach the same to the county of Hays."

House bill No. 615, "An act to incorporate the Henderson and Center Railway Company."

House bill No. 591, "An act to amend the first section of an act entitled an act to amend the first section of an act to amend the fourth section of an act entitled 'an act regulating attachments,' " approved March 11, 1848; passed July 24, 1856; approved December, 16, 1863; and substitute for House bill, No. 584, "An act to amend an act entitled 'an act to adopt and establish a Penal Code for the State,' " approved August 28, A. D. 1856.

It was also announced that the House had adopted and passed the Senate substitute for House bill No. 603, "To legalize and validate all amendments to town and city charters made under the provisions of 'an act to provide for

the amendment of town and city charters," approved April 24, 1874.

House bill No. 762, "An act making an appropriation to pay Richardson, Belo & Co., for certain public printing therein mentioned."

House bill No. 601, "An act to provide for the re-compilation of an abstract of the titled and patented lands in Texas."

Senator Russell, Chairman Senate Joint Select Committee, submitted the following report :

Hon. R. B. Hubbard, President of the Senate :

Your Joint Select Committee, appointed under Senate concurrent resolution, requiring enquiry into the condition of the county jail of Travis county, and the treatment of the prisoners confined therein, have performed the duty assigned them by the terms of said resolution, and instruct me to report as follows :

That the room of the jail building of said county, in which the prisoners are confined, is a strong, close and exceedingly dark cell, fifteen feet square, in which at the hour of 9½ A. M., of a very bright morning, your committee found it necessary to have candles lighted to enable them to distinguish one object from another.

That *thirty-four* men, whites and negroes, are confined in said cell, which your committee believes would be unreasonably crowded with *ten* prisoners.

That the ventilation of said cell is so defective, that humanity forbids the confinement of any number of human beings, however small, therein during the summer months.

That many of the prisoners, on the visit of your committee, were stripped to their waists and engaged in searching their scanty, worn and dirty clothing for *vermin*, with which they alleged their cell is infested—and from the manner and acts of the prisoners, during the brief stay of your committee in said cell, we are satisfied of the truth of said statement.

That from the testimony of the prisoners, the treatment of them by the sheriff and his subordinates, is as kind and considerate as circumstances will admit of.

From which your committee conclude that said cell is an unfit place for the confinement of prisoners—that the incarceration of any human being therein, even after conviction of the highest grade of felony, is an unusual and

cruel punishment—the tortures of which are more than sufficient to impair the health and destroy the reason of the unfortunate inmates.

Your committee further say, that they have seen the new jail of Travis county, now in process of construction, and are satisfied the same is being constructed with due regard for the safety and comfort of prisoners.

In consideration of the foregoing, to relieve the necessities of Travis county in this particular, and to enable the citizens of said county to rid themselves of this *nuisance*, and to treat their county prisoners more in consonance with their own enlightened views and the demands of humanity, your committee instruct me to report the following bill and recommend its passage.

WM. H. RUSSELL, Chairman,
Senate Committee.

The title of the bill referred to, is: “An act to authorize the county court of Travis county to issue and dispose of the bonds of said county, for the purpose of erecting a courthouse and jail in accordance with the provisions of ‘an act to lease to the use of Travis county certain land, in the city of Austin, on which to erect a courthouse and jail, and to enable said county to build the same, approved May 4th, 1874,’ and to provide for the redemption of said bonds.” Read first time and referred to Judiciary Committee.

Senator Wood introduced a bill entitled “An act supplemental to ‘an act to regulate fees of the General Land Office.’” Read first time and ordered to lie on the table.

Senator Craven introduced a bill entitled “An act for the relief of Thos. Parker, of Shelby county.” Read first time and referred to Committee on Private Land Claims.

Senator Dillard offered the following resolution:

Resolved, That the Committee on Land Office be and is hereby instructed to inquire into the feasibility of making the General Land Office self-supporting by an increase of fees; and that they be permitted to report by bill or otherwise. Adopted.

The President appointed Senator Dillard on said committee; also on the Finance Committee.

Senator Flanagan introduced a bill entitled “An act to amend an act entitled ‘an act further regulating proceedings in the several courts of the State of Texas.’”

approved May 19, 1871. Read first time and referred to Judiciary Committee.

Senator Allison introduced a bill entitled "An act to encourage the settlement of our Indian frontier." Read first time and referred to Committee on Public Lands.

Senator Ball introduced a bill entitled "An act to incorporate the Fairfield, Hillsboro and Cleburne Railway Company, and to grant lands to aid in the construction thereof." Read first time and referred to Committee on Internal Improvements.

Senator Shepard introduced a bill entitled "An act to carry into effect, section 24 of article 5, of the constitution, by defining the offenses of non-feasance, mis-feasance and mal-feasance in office, and providing penalties therefor." Read first time and ordered to lie on the table.

Senator Bradley introduced a bill entitled "An act to amend section thirteen of an act entitled 'an act to encourage the construction of railroads in Texas, by donation of lands,' approved January 30, 1854. Read first time and referred to Committee on Internal Improvements.

Senator Joseph for Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 229, "An act concerning notaries public." Senate bill No. 485, "An act to amend an act entitled 'an act to amend an act regulating attachments;'" approved January 16th, 1850. Senate bill No. 509, "An act to amend 'an act regulating elections;'" approved March 31st, 1873. Senate bill No. 605, "An act to regulate the hours of business in the several departments of the State government." Senate bill No. 545, "An act authorizing the Commissioner of the General Land Office to employ additional help for the business of said office." Senate joint resolution No. 611, "Concerning the vacant lands in Fisher and Miller's colony," and find all of same correctly engrossed.

JOSEPH, for Committee.

On motion of Senator Shepard, the rules were suspended, and the bill introduced by him, this morning, entitled "An act to carry into effect section twenty-four, of article five, of the constitution, by defining the offenses of non-feas-

ance, mis-feasance and mal-feasance in office, and providing penalties therefor," was taken up, read second time and ordered engrossed.

On motion of Senator Dwyer, the rules were suspended, bill read third time and passed.

On motion of Senator Hobby, the rules were suspended, and Senate bill No. 618, "An act to authorize Menard county to have records transcribed," was taken up, read second time and ordered engrossed.

On motion of Senator Hobby, the rules were suspended, bill read third time and passed.

On motion of Senator Ball, the rules were suspended, and House bill No. 745, "An act making provisions for the purchase and safe keeping of a library of moral and useful books for the use and improvement of the convicts confined in the State penitentiary," was taken up, read second time and passed to third reading.

Senator Culberson offered the following amendment:

Add to the first section the following words, "and shall file with the Secretary of State a list of said books, with the prices." Adopted.

The bill, as amended, was then read third time and passed, by the following vote.

YEAS—Senators Allison, Ball, Baker, Bradshaw, Bradley, Burton, Camp, Culberson, Craven, Dillard, Davenport, Dwyer, Ellis, Erath, Flanagan, Friend, Hobby, Joseph, Ledbetter, Morris, Parker, Randle, Shepard, Stirman, Swift, Westfall and Wood—27.

The hour for the consideration of the special order having arrived, to-wit: House amendments to Senate joint resolution No. 447, "Condemning the interference with and destruction of the State government of Louisiana, by the present federal administration," it was, on motion of Senator Dillard, postponed until to-morrow at 11 o'clock A. M.

The hour for the consideration of the special order having arrived, to-wit: Senate bill No. 535, "An act to regulate the management of railroad companies," it was, on motion of Senator Wood, postponed until Thursday next, at 11 o'clock A. M., and made special order for that day and hour.

Senate bill No. 490, "An act concerning land titles," was taken up and read second time, pending an adverse report from the committee reporting on said bill.

The question being on the adoption of the report, the Senate refused to adopt the same by the following vote:

YEAS—Senators Bradshaw, Dillard, Ellis, Friend, Hobby, Shepard, Swift and Wood—8.

NAYS—Senators Allison, Ball, Baker, Bradley, Burton, Camp, Culberson, Craven, Davenport, Dwyer, Erath, Flanagan, Joseph, Ledbetter, Morris, Parker, Stirman and Westfall—18.

Senator Ball moved to suspend the rules to put the bill on its final passage. Lost.

In obedience to the requirements of a resolution introduced yesterday by Senator Shepard, and adopted by the Senate, the Secretary of the Senate submitted the following report:

SENATE CHAMBER.
AUSTIN, February 9, 1875.

Hon. R. B. Hubbard, President of the Senate:

In obedience to a resolution adopted by the Senate on yesterday, I have the honor to submit the following report:

C. L. Dawson, Paul S. McCombs and William Masterson, are assistant enrolling, engrossing and committee clerks, and receive eight dollars each per day for their services.

S. J. Dowty is an assistant engrossing clerk, and receives eight dollars per day for his services.

Johnie Porter, Jesse Ellis, Temple Houston and James Neill are pages of the Senate, and receive four dollars each per day.

Tom Hancock, Lee Blocker, Jim Russell and William Risher, are porters of the Senate, and receive four dollars each per day for their services.

The above includes all the employees of the Senate at present.

Very respectfully,

J. F. BEAL, Secretary of the Senate.

Read, and on motion of Senator Shepard, was referred to Finance Committee.

The President directs the journals to show that the name of Samuel Dowty was placed on the pay rolls without his direction or authority, to the Secretary of the Senate; and that no appointment has been made by the President except under pre-existing resolution, as well as under petition of nearly all the Senators.

The appointment of Mr. Dowty was made by Committee

on Engrossed Bills, under resolution of the last session of the Senate, and the Secretary accordingly placed his name on the roll, and as such will be retained subject to the action of the Senate.

On motion of Senator Friend, the rules were suspended, and House joint resolution No. 32, "For the relief of Rufus A. Upton, late sheriff of Refugio county," was taken up, read second time and passed to third reading.

On motion of Senator Friend, the rules were further suspended, bill read third time and passed by the following vote:

YEAS—Senators Allison, Ball, Baker, Bradley, Burton, Camp, Culberson, Dillard, Davenport, Dwyer, Ellis, Erath, Flanagan, Friend, Hobby, Joseph, Ledbetter, Morris, Parker, Russell, Shepard, Swift Westfall and Wood—24.

NAYS—None.

On motion of Senator Westfall, the rules were suspended and House bill No. 559, "An act to amend section one of 'an act directing the publication of the expenditures, assets and indebtedness of the several counties,'" approved March 8, 1873, was taken up, read second time and passed to third reading.

On motion of Senator Westfall, the rules were further suspended, bill read third time and passed.

On motion of Senator Joseph, the rules were suspended, and House bill No. 762, "An act making an appropriation to pay Richardson, Belo & Co. for certain public printing therein mentioned," was taken up, read first time, and referred to Committee on Claims and Accounts.

On motion of Senator Swift, the rules were suspended, and Senate joint resolution No. 550, "Concerning the purchase of certain laws printed in the German language," was taken up and re-referred to the Finance Committee.

Senator Russell, by leave, introduced a bill, entitled "An act attaching Bexar Territory to the county of Kinney for judicial and surveying purposes." Read first time.

On motion of Senator Dwyer, the rules were suspended, bill read second time and ordered engrossed.

On motion of Senator Russell, the rules were further suspended, bill read third time and passed.

On motion of Senator Shepard, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-SIXTH DAY.

SENATE CHAMBER.)
AUSTIN, February 10, 1875.)

Senate met pursuant to adjournment : roll called : quorum present. Prayer by the chaplain.

On motion of Senator Wood, the reading of the journal of yesterday was dispensed with.

Senator Stirman, Chairman Committee on State Affairs, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate :

Your Committee on State Affairs, to whom was referred Senate bill No. 623, "An act to incorporate Mount Olivet Cemetery Company," having considered the same, instruct me to report said bill back to your honorable body, and recommend its passage, with the following amendments:

In section eight, first line, strike out all after the word "enacted" to the word, "said" in third line, and insert in lieu thereof "that all lots in said cemetery, after sale to individuals, and designation for use for burial purposes, shall be exempt from taxation."

W. B. STIRMAN, Chairman.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on State Affairs, to whom was referred Senate bill No. 621, "An act to reimburse Lee county for the expenses incurred by said county in making out proper assessment rolls for the same," have considered the same, and instruct me to report said bill back to your honorable body, and recommend its passage, with the following amendment:

In section one, lines seventeen and eighteen, strike out "seven hundred and fifty," and insert "five hundred."

W. B. STIRMAN, Chairman.

Hon. R. B. Hubbard, President of the Senate :

Your Committee on State Affairs, to whom was referred Senate bill No. 537, "An act to reward J. T. Morris for capturing the stage robber, J. C. Reid," having carefully considered the same, instruct me to report said bill back to your honorable body, and recommend its passage.

W. B. STIRMAN, Chairman.